



COURT OF APPEAL
Second Appellate District Mediation Program
REQUEST FOR MEDIATORS

The Second Appellate District is seeking applications from experienced mediators and appellate lawyers who would like to join the Court's Mediation Program panel.

Qualifications:

- ✓ At least seven years experience as a practicing lawyer
- ✓ Experience in appellate law or mediation training and experience
- ✓ Successful completion of the court's Appellate Mediation Training (at no charge)

Application procedures:

- ✓ Request an application packet from the Mediation Coordinator by calling
- ✓ (213) 830-7136 or e-mailing at Theresa.Carter-Mata@jud.ca.gov.
- ✓ Read the Program Information included in the application packet
- ✓ Complete the application and send it with your resume to the program coordinator

Requirements of mediators:

- ✓ Completion of at least four mediation referrals within two years of applying to the panel
- ✓ Agreement to follow the Program's policies and procedures
- ✓ Agreement to adhere to the Judicial Council Ethical Rules of Conduct for Mediators

Mediator compensation:

Mediators volunteer a total of six hours of time for the mediation, which normally includes: (a) two hours of preparation time to conduct pre-mediation conferences and to read and analyze materials provided by counsel in advance of the mediation and (b) four hours of time in mediation sessions.

After a total of six hours of preparation and/or mediation, mediators are permitted to charge the parties for additional mediation services rendered, at their hourly rate, provided all parties agree.



**COURT OF APPEAL
Second Appellate District
300 South Spring Street
2nd Floor - North Tower
Los Angeles, California 90013
Joseph A. Lane, Clerk
(213) 830-7000**

MEDIATION PROGRAM INFORMATION

Opting into the voluntary Mediation Program

The Court of Appeal, Second Appellate District, provides parties the opportunity to participate in its voluntary Mediation Program. If the parties have agreed to opt into the Mediation Program, the court will appoint a mediator from the Mediation Program's roster to conduct mediation as soon as possible and ideally prior to the time the record is required to be filed.

Mandatory participation once the parties agree to mediate

Although the Mediation Program is voluntary, once the parties agree to participate, it becomes **MANDATORY** that they comply with the procedures set forth in the court's scheduling letter or risk the imposition of sanctions. In particular, all parties and their counsel must attend all mediation sessions in person. If a party is not an individual, then a party representative with full authority to settle all appeals and cross-appeals must attend in person. In cases where insurance coverage may apply, a representative of each carrier with full settlement authority must attend in person.

Intake procedures and timing of the mediation process

The mediation process commences as soon as possible after the filing of the *Notice of Appeal*, to save the parties as much money and time as possible in record and brief preparation. If the parties have indicated their agreement to mediate on the Mandatory Docketing Statement (MDS), or otherwise choose to participate in the Mediation Program, the Mediation Coordinator (the court's administrator in charge of administering the Mediation Program, including scheduling mediations) will promptly notify counsel of the date and time of the mediation, the appointment of a mediator and the court's requirements for participation, including providing the mediator with information and assuring that the appropriate individuals appear at the mediation.

Effect of mediation on the timing of the appellate process

Participation in the Mediation Program does not affect the court schedule for preparation of the record or for briefing. Any requests for continuances or stays must be addressed to the court under the local rules. Neither the Mediation Coordinator nor the mediator may approve any continuance.

Additional ways to participate in the Mediation Program

If the parties do not indicate in the MDS their agreement to participate in the Mediation Program, they may do so at a later time in the following ways:

By agreement: If at any point in the appeal process the parties decide to participate in the Mediation Program, counsel may contact the Mediation Coordinator to schedule mediation.

By confidential request: If a party would like to participate in the Program, but is reluctant to contact the other side, counsel may contact the Mediation Coordinator confidentially to discuss the case and request that she contact the other counsel to discuss the possibility of participating in the Program.

By invitation of the court: The Mediation Coordinator may contact counsel to invite parties to participate in the Mediation Program. Participation in the Program is entirely voluntary and any contact initiated by the Mediation Coordinator is intended merely to inform counsel about the program and to offer assistance in settlement.

Mediation

Mediation is an informal, ***confidential*** process in which a neutral party (the mediator) assists the parties to understand their own interests, the interests of the other parties, and the practical and legal realities they all face. The mediator helps the parties explore options and arrive at a mutually acceptable resolution of the dispute. The mediator does not resolve the dispute. The parties do.

The mediators

The court has recruited to its panel experienced mediators and appellate specialists, based on their training, experience and performance. In addition, the court provides its mediators with intensive training in appellate mediation. The Mediation Coordinator matches mediators to specific disputes.

Mediator compensation

Mediators volunteer a total of six hours of time for the mediation, which normally includes: (a) two hours of preparation time to conduct pre-mediation conferences and to read and analyze materials provided by counsel in advance of the mediation and (b) four hours of time in mediation sessions.

After a total of six hours of preparation and/or mediation, mediators are permitted to charge the parties for additional mediation services rendered, at their hourly rate, provided all parties agree.

Mediators who intend to request compensation should notify counsel of the policy and their hourly rate in the pre-mediation telephone conferences and should provide written confirmation of the mediator and the parties' agreement regarding fees to counsel prior to the mediation.

Where the mediator anticipates exceeding two hours of preparation time, reducing *pro bono* mediation hearing time to less than four hours, the mediator should discuss this expectation with counsel during the premediation conference and confirm the resolution reached in the discussion to counsel in writing. If preparation time exceeds two hours, the mediator should, at the outset of the mediation, inform the participants of the number of *pro bono* hours available for the mediation session.

Mediation procedures

Pre-mediation telephone conference: Shortly after appointment, the mediator will send a letter to counsel to schedule a telephone conference or separate phone calls with counsel. The purpose of the conference(s) is to handle the logistics of the mediation, to discuss mediator compensation and any potential conflicts of interest and to enhance the probability of resolution by preparing the case for mediation.

The mediation session: All participants must sign a confidentiality agreement. At the end of the mediation, the mediator may distribute evaluation forms to all participants. Parties and counsel should submit the completed forms to the Mediation Coordinator within 10 days of completion of mediation.

After the completion of the mediation: If the matter has resolved, the parties are encouraged to sign a settlement agreement or memorandum of understanding before leaving the mediation session and as soon as the final settlement agreement is executed to request dismissal of the appeal. Within 10 days, the mediator submits a Mediator's Statement to the Mediation Coordinator. The mediator retains the confidentiality agreement and a copy of any settlement agreement.

Advantages of appellate mediation

- ***Mediation can avoid the risk of reversal.*** Even if you have obtained a judgment in the trial court, there is a significant chance that it may be reversed on appeal and remanded for further, costly proceedings.
- ***Mediation can avoid financial risk.*** A judgment may be worth less than face value if there is a significant risk that the judgment debtor will go bankrupt or if a delayed judgment satisfaction will have adverse effects. In addition, a mediated resolution may avoid or mitigate unfavorable tax effects.
- ***Mediation can bring more satisfactory results.*** Often the trial court judgment does not satisfy even the prevailing party. A mediator can assist the parties to achieve their real interests.
- ***Mediation can save money.*** The mediation process begins at the outset of the appeal. This can save substantial costs of preparing the record and briefs.
- ***Mediation can save time.*** Mediation can resolve a dispute in a matter of days, while an appeal can take months.
- ***Mediation can provide greater client participation.*** Clients often are frustrated by their restricted role in pretrial and trial proceedings. Once the trial record is complete, clients can have greater participation and satisfaction in determining the resolution of their disputes. Often, this aids attorney-client relations.
- ***Mediation can reduce stress.*** Mediation encourages cooperation and communication, while discouraging the adversarial atmosphere of litigation. Litigation is very stressful. Most people reach a point where they want to get on with their lives, with their businesses, and, sometimes, with their relationship with other parties.

***For further information, call the Mediation Coordinator by phone at
213-830-7136 or e-mail at Theresa.carter-mata@jud.ca.gov.***



**COURT OF APPEAL, SECOND APPELLATE DISTRICT
MEDIATION PROGRAM**

MEDIATOR APPLICATION

Please complete the following application and return it with your resume.

Name _____

Firm/Agency _____

Address _____
Street/P.O. Box City County Zip code

Telephone _____ **Fax** _____ **E-mail** _____

- 1. Describe your education, including degrees and the dates received:**

- 2. Describe any mediation training you have received. (*For each training, give the trainer's name, the dates attended and the total hours.*)**

- 3. Describe your mediation experience, not including settlement conferences. Describe the *subject matter* of five disputes for which you have been a *mediator* in the past five years, with the dates and approximate length of the mediation. (*Do not include the names of the parties. State whether you were a sole mediator or a co-mediator.*)**

- 4. List other court mediation panels on which you presently serve.**

5. State the name of any organization for which you have provided mediation services during the past five years.

6. Check areas of your substantive expertise:

- | | | |
|---|---|--|
| <input type="checkbox"/> Banking | <input type="checkbox"/> Environment | <input type="checkbox"/> Medical malpractice |
| <input type="checkbox"/> Business/Contracts | <input type="checkbox"/> Family law | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Civil rights | <input type="checkbox"/> Health care | <input type="checkbox"/> Personal Injury |
| <input type="checkbox"/> Construction | <input type="checkbox"/> Housing/homeowners assn. | <input type="checkbox"/> Real estate |
| <input type="checkbox"/> Defamation | <input type="checkbox"/> Insurance | <input type="checkbox"/> Securities |
| <input type="checkbox"/> Eminent domain | <input type="checkbox"/> Intellectual property | <input type="checkbox"/> Tax |
| <input type="checkbox"/> Employment/labor | <input type="checkbox"/> Landlord-tenant | |

Other specify: _____

7. If you are an attorney, how many years have you been in active practice? _____

8. What is (or was) the nature of your practice? _____

9. Are you certified in any specialty? If so, please specify:

10. What percentage of your practice has been representing
plaintiffs ____% defendants ____%?

11. How many of the following have you completed in the past five years?

Jury trials ____ Court trials ____ Arbitrations ____ Appeals ____

12. Describe your appellate experience:

13. If you have mediation experience, is your mediation style facilitative or
evaluative/directive? _____

14. List any languages, other than English in which you can conduct a mediation.

15. State any other information that should be considered in respect to your application.

List the names and telephone numbers of three persons familiar with your mediation or appellate skills, indicating which applies.

Name	Phone	Mediation	Appellate

Mediation Training

If you are invited to enroll in the Mediation Program's Appellate Mediation Training, **you must attend** all required training sessions.

Orientation to Appellate Mediation (half day)

Advanced Appellate Mediation Training (2 days)

Fundamentals of Appellate Mediation (2 days)

The dates of all training sessions will be announced at a later time. If you cannot attend all required sessions, you are not eligible for appointment to the Mediation Program's panel.

Please read and sign the following agreement:

- a. In consideration of the appellate mediation training to be provided by the Court, I agree to convene and mediate four mediation referrals within two years of this application. (Please see ***Mediator compensation***, p. 3, *Mediation Program Information*.)
- b. I agree to be bound by the Mediation Program's policies and procedures.
- c. I agree to waive any and all claims against the Court in connection with my mediation of any Court-referred dispute.
- d. I agree to adhere to the ethical standards for mediators adopted by the Court.
- e. (For attorneys) I am in good standing with the State Bar of California.

Date: _____ Name (print): _____

Signature _____

Please e- mail or fax this application and your resume for expeditious handling or mail to:

Theresa Carter-Mata, Mediation Coordinator
 Court of Appeal, Second Appellate District
 300 South Spring Street, Second Floor – North Tower
 Los Angeles, California 90013
 213-830-7136 • Fax # 213-830-7033
 theresa.carter-mata@jud.ca.gov